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12 **UNITED STATES DISTRICT COURT**
13 **DISTRICT OF NEVADA**

14 NOEL C. MURRAY, DR. SWARNA PERERA, and
15 JOYCE E. FRIEDMAN, on behalf of themselves and
all others similarly situated,

16 Plaintiffs,

17 v.

18 PROVIDENT TRUST GROUP, LLC,

19 Defendant.

Case No.: 2:18-cv-01382-MMD-GWF

**STIPULATION AND [PROPOSED]
ORDER TO DISMISS PLAINTIFFS'
REMAINING CLAIMS WITH
PREJUDICE**

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21 Plaintiffs Noel C. Murray, Dr. Swarna Perera, and Joyce E. Friedman (“Plaintiffs”), by
22 and through their counsel of record, the Law Office of Hayes & Welsh, the Law Office of
23 Christopher J. Gray, P.C., and the Law Offices of Joshua B. Kons, LLC, and Defendant Provident
24 Trust Group, LLC, by and through its counsel of record, Greenberg Traurig, LLP, hereby stipulate
25 and request that the Court dismiss Plaintiff's remaining claims with prejudice pursuant to Fed. R.
26 Civ. P. 41(a)(2). This Stipulation is made and based upon the following:

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1 1. Plaintiffs filed their initial Complaint on July 26, 2018, in which they allege
2 Defendants breached their contractual and fiduciary duties as custodians of Plaintiffs' Self-
3 Directed Individual Retirement Accounts. (ECF No. 1).

4 2. Defendants filed a motion to dismiss on October 8, 2018. (ECF No. 21). The
5 Court entered an Order on April 23, 2019 (ECF No. 45) dismissing all claims, but allowing
6 Plaintiffs leave to replead their claim for breach of contract against Defendant Provident Trust
7 Group, LLC ("Defendant").

8 3. Plaintiffs filed their First Amended Class Action Complaint ("FACAC") on May
9 8, 2019, in which they allege Defendant breached contractual duties as custodian of Plaintiffs'
10 Individual Retirement Accounts. (ECF No. 46)

11 4. Defendant filed a motion to dismiss the FACAC on June 21, 2019. (ECF No. 49).
12 The Court entered an Order on December 18, 2019 (ECF No. 57, the "December 18, 2019 Order")
13 granting in part and denying in part Defendant's motion to dismiss.

14 5. More specifically, the December 18, 2019 Order dismissed the breach of contract
15 claims of Plaintiff Joyce Friedman based on a release contained in a certain Direction of
16 Investment form signed by Plaintiff Friedman. The December 18, 2019 Order denied the
17 Defendant's motion to dismiss as to Plaintiff Noel C. Murray and Swarna Perera.

18 6. The parties have reviewed certain documents produced to Plaintiffs by Defendant
19 Provident Trust Group, LLC including certain Direction of Investment forms signed by Plaintiffs
20 Murray and Perera that contain release language substantively identical to the language on which
21 the Court based its dismissal of Plaintiff Friedman's breach of contract claim in the December 18,
22 2019 Order. In light of the December 18, 2019 Order, the parties believe that the Court would
23 dismiss Plaintiffs Murray and Perera's breach of contract claims if presented with a dispositive
24 motion premised on the Direction of Investment forms signed by Plaintiffs Murray and Perera.

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7. In light of the foregoing, the parties have stipulated and agreed to the dismissal of Plaintiffs Murray and Perera's remaining claims with prejudice, and ask that the Court "so order" said stipulation and direct the Clerk to enter judgment accordingly.

STIPULATED AND AGREED this 9th day of January, 2020.

/s/ *Michael J. Slocum*/s/ *Martin L. Welsh*

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ORDER

IT IS HEREBY ORDERED as follows:

1. Pursuant to Rule 41(a)(2), Plaintiffs Noel C. Murray and Swarna Perera's breach of contract claims are dismissed with prejudice.

2. The Clerk of the Court is directed to enter final judgment in this matter.

3. Each party to this action shall bear its own costs, disbursements, attorney's fees and expenses.

DATED: January 9, 2020



MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE
Case No.: 2:18-cv-01382-MMD-GWF